IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SEVENTEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE Ch.S.R.K. PRASAD

WRIT PETITION No: 15591 of 2004

Between:

1 The Audit Officer, Local Funds, Chittoor, Chittoor District.
2 The District Treasury Officer, Chittoor, Chittoor District.
3 The Director of Local Fund Audit, A.P., Hyderabad.

..... PETITIONERS

AND

1 P. Jeevaratnam, S/o. P. Munaiah,
Mandal Praja Praishad School, Bathalavaripalli, Puthalapattu Mandal, Chittoor District.
2 Sri M. Ravindran, S/o. Ramachamndrudu,
Mandal Praja Parishad School, Vavilalavaripalli, Puthalapattu Mandal, Chittoor District.
3 The Chief Executive Officer, Zilla Parishad, Chittoor, Chittoor Districtr.
4 The Commissioner and Director of School, Education Department, Hyderabad.
5 The Secretary to Government, Education (Prog.I-2) Department, A.P. Secretariat, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order of direction more particularly one in the nature writ of "Certiorari" and calling for the records relating to the order passed in O.A.No. 4535/2000 with M.A.NO. 768/2003, dt. 16-3-2004 on the file of the A.P. Administrative Tribunal, Hyderabad and quash the same as illegal, arbitrary and pass such other order or orders.

Counsel for the Petitioner: GP FOR SERVICES II

Counsel for the Respondent Nos.1 & 2: MR.K.UMAPATHI

Counsel for the Respondent Nos.3: MR.DANTU SRINIVAS

The Court made the following:

ORAL ORDER: (BY GB,J).

The Writ Petition is filed challenging the order, dated 16.3.2004 passed by the A.P. Administrative Tribunal, Hyderabad, in O.A.No.4535 of 2000. The tribunal allowed the O.A. filed by the employee with the following observation.

> "There is no dispute that G.O.1157 was issued on 3-7-1989 whereas G.O.Rt.No.1419 was issued on 5.8.1989 which is latter in origin. When there is a conflict between the earlier and the later G.O. and when a reference is made to the earlier G.O., the latter G.O. prevails. There is no ambiguity in G.O.Rt.No.1419 with respect to fixing of pay scales prior to passing of T.T.C. though Teachers, who were appointed as Special Grade Teachers should be given minimum scale till they pass T.T.C. training, they should be absorbed in regular scale of pay and should be kept on probation from the date following the publication of the results of the Training. So, regular pay should be paid to them from the date of publication of results of training and it is not open to say for the authorities that after publication of results of the training, only minimum pay scale should be paid, which is clear as per G.O.Rt.No.1419. So, if any regular scale is paid after passing the TTC Course, the question of recovery of that amount till they are absorbed does not arise, since they are entitled to the regular scale of pay and their probation also commences from that date onwards. So, whatever the interpretation that is given latter G.O. So, basing upon G.O.Rt.No.1419, they are entitled to regular scale of pay from the date of declaration of result of the Training and if any amount is paid to theme excess than that, then only the recovery can be affected. Basing upon that necessary pay fixation should be made from the date following the publication of results of training i.e., from 15-12-1989. Taking that as the basis, their salary should be fixed as per the Revised Pay Scales, 1999. It is unfortunate that the authorities refused to fix the pay of the applicant as per 1999 Revised Pay Scales till the amount is recovered from the applicants which is not a correct proposition. If at all any recovery is to be made, it has to be made before fixing the pay and scales are granted. But, instead, the Audit Officer, done in reverse manner which is bad in law. So, in view of the above observations, the applicants should be paid the Revised Pay Scales of 1999 and arrears should be paid to them as per the pay scales so fixed within a period of two months from the date of receipt of a copy of this order. Accordingly, the O.A. & M.A. are disposed of."

2. The said order is assailed in this Writ Petition. The learned counsel for the petitioners submit that the respondent is not entitled for the arrears inasmuch as pending contempt proceedings, the order was passed. Therefore, the writ petition is liable to be admitted and adjudicated on its own merits.

3. We are afraid we cannot accept the contentions. The order passed by the Mandal Education Officer dated 23-9-2004, is itself very specific in implementation of the orders of the tribunal in O.A.No.4535 of 2000. Under those circumstances, once the order is implemented, it is not open for the petitioner to challenge the same. Thus, we do not find any merits in the Writ Petition.

4. Accordingly, the Writ Petition is dismissed. No costs.

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(G. BIKSHAPATHY, J.)

17-11-2004

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(CH.S.R.K. PRASAD, J.)

KSN/ES

To

1 The Registrar, A.P. Administrative Tribunal, Hyderabad.

2 The Chief Executive Officer, Zilla Parishad, Chittoor, Chittoor Districtr.
3 The Commissioner and Director of School, Education Department, Hyderabad.
4 The Secretary to Government, Education (Prog.I-2) Department, A.P. Secretariat, Hyderabad.

5 The Audit Officer, Local Funds, Chittoor District.

6 The District Treasury Officer, Chittoor, Chittoor District.

7 The Director of Local Fund Audit A.P., Hyderabad.

8 2 CCs to the Government Pleader for Services II (OUT).

9 2 CD copies.